

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 268

HOUSE BILL 2550

AN ACT

AMENDING SECTIONS 8-412, 13-4401 AND 13-4433, ARIZONA REVISED STATUTES;
RELATING TO VICTIMS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-412, Arizona Revised Statutes, is amended to
3 read:

4 8-412. Victim's right to refuse an interview; applicability

5 A. Unless the victim consents, the victim shall not be compelled to
6 submit to an interview on any matter, including any alleged delinquent act
7 witnessed by the victim and that occurred on the same occasion as the
8 delinquent act against the victim, or filed in the same petition or
9 consolidated for an adjudication hearing, that is conducted by the juvenile
10 defendant, the attorney for the juvenile defendant or an agent of the
11 juvenile defendant.

12 B. The juvenile defendant, the attorney for the juvenile defendant or
13 an agent of the juvenile defendant shall only initiate contact with the
14 victim through the prosecutor's office. The prosecutor's office shall inform
15 the victim of the juvenile defendant's request for an interview within ten
16 days after the request and shall advise the victim of the victim's right to
17 refuse the interview.

18 C. The prosecutor shall not be required to forward any correspondence
19 from the juvenile defendant, the juvenile defendant's attorney or an agent of
20 the juvenile defendant to the victim or the victim's representative.

21 D. If the victim consents to an interview, the prosecutor's office
22 shall inform the juvenile defendant, the attorney for the juvenile defendant
23 or an agent of the juvenile defendant of the time and place the victim has
24 selected for the interview. If the victim wishes to impose other conditions
25 on the interview, the prosecutor's office shall inform the juvenile
26 defendant, the attorney for the juvenile defendant or an agent of the
27 juvenile defendant of the conditions. The victim has the right to terminate
28 the interview at any time or to refuse to answer any question during the
29 interview. The prosecutor has standing at the request of the victim to
30 protect the victim from harassment, intimidation or abuse and, pursuant to
31 that standing, may seek any appropriate protective court order.

32 E. Unless otherwise directed by the victim, the prosecutor may attend
33 all interviews. If a transcript or tape recording of the interview is made
34 and on request of the prosecutor, the prosecutor shall receive a copy of the
35 transcript or tape recording at the prosecutor's expense.

36 ~~F. For the purposes of this section, a peace officer shall not be~~
37 ~~considered a victim if the act that would have made the officer a victim~~
38 ~~occurs while the peace officer is acting in the scope of the officer's~~
39 ~~official duties.~~

40 ~~F.~~ F. This section applies to the parent or legal guardian of a minor
41 child who exercises victims' rights on behalf of the minor child.

42 Sec. 2. Section 13-4401, Arizona Revised Statutes, is amended to read:
43 13-4401. Definitions

44 In this chapter, unless the context otherwise requires:

1 1. "Accused" means a person who has been arrested for committing a
2 criminal offense and who is held for an initial appearance or other
3 proceeding before trial.

4 2. "Appellate proceeding" means any contested matter before the state
5 court of appeals, the state supreme court, a federal court of appeals or the
6 United States supreme court.

7 3. "Arrest" means the actual custodial restraint of a person or the
8 person's submission to custody.

9 4. "Court" means all state, county and municipal courts in this state.

10 5. "Crime victim advocate" means a person who is employed or
11 authorized by a public entity or a private entity that receives public
12 funding primarily to provide counseling, treatment or other supportive
13 assistance to crime victims.

14 6. "Criminal offense" means conduct that gives a peace officer or
15 prosecutor probable cause to believe that ~~one of the following has occurred:~~

16 ~~(a) a felony, —~~

17 ~~(b) a misdemeanor, involving physical injury, the threat of physical~~
18 ~~injury or a sexual~~ A PETTY offense OR A VIOLATION OF A LOCAL CRIMINAL
19 ORDINANCE HAS OCCURRED.

20 7. "Criminal proceeding" means any hearing, argument or other matter
21 that is scheduled by and held before a trial court but does not include any
22 deposition, lineup, grand jury proceeding or other matter that is not held in
23 the presence of the court.

24 8. "Custodial agency" means any law enforcement officer or agency, a
25 sheriff or municipal jailer, the state department of corrections or a secure
26 mental health facility that has custody of a person who is arrested or in
27 custody for a criminal offense.

28 9. "Defendant" means a person or entity that is formally charged by
29 complaint, indictment or information of committing a criminal offense.

30 10. "Final disposition" means the ultimate termination of the criminal
31 prosecution of a defendant by a trial court, including dismissal, acquittal
32 or imposition of a sentence.

33 11. "Immediate family" means a victim's spouse, parent, child, sibling,
34 grandparent or lawful guardian.

35 12. "Lawful representative" means a person who is designated by the
36 victim or appointed by the court and who acts in the best interests of the
37 victim.

38 13. "Post-arrest release" means the discharge of the accused from
39 confinement on recognizance, bond or other condition.

40 14. "Post-conviction release" means parole, work furlough, community
41 supervision, probation if the court waived community supervision pursuant to
42 section 13-603, home arrest or any other permanent, conditional or temporary
43 discharge from confinement in the custody of the state department of
44 corrections or a sheriff or from confinement in a municipal jail or a secure
45 mental health facility.

1 15. "Post-conviction relief proceeding" means a contested argument or
2 evidentiary hearing that is held in open court and that involves a request
3 for relief from a conviction or sentence.

4 16. "Prisoner" means a person who has been convicted of a criminal
5 offense against a victim and who has been sentenced to the custody of the
6 sheriff, the state department of corrections, a municipal jail or a secure
7 mental health facility.

8 17. "Release" means no longer in the custody of a custodial agency and
9 includes transfer from one custodial agency to another custodial agency.

10 18. "Rights" means any right that is granted to the victim by the laws
11 of this state.

12 19. "Victim" means a person against whom the criminal offense has been
13 committed, including a minor, or if the person is killed or incapacitated,
14 the person's spouse, parent, child, grandparent or sibling, any other person
15 related to the person by consanguinity or affinity to the second degree or
16 any other lawful representative of the person, except if the person or the
17 person's spouse, parent, child, grandparent, sibling, other person related to
18 the person by consanguinity or affinity to the second degree or other lawful
19 representative is in custody for an offense or is the accused.

20 Sec. 3. Section 13-4433, Arizona Revised Statutes, is amended to read:

21 13-4433. Victim's right to refuse an interview; applicability

22 A. Unless the victim consents, the victim shall not be compelled to
23 submit to an interview on any matter, including any charged criminal offense
24 witnessed by the victim and that occurred on the same occasion as the offense
25 against the victim, or filed in the same indictment or information or
26 consolidated for trial, that is conducted by the defendant, the defendant's
27 attorney or an agent of the defendant.

28 B. The defendant, the defendant's attorney or an agent of the
29 defendant shall only initiate contact with the victim through the
30 prosecutor's office. The prosecutor's office shall promptly inform the
31 victim of the defendant's request for an interview and shall advise the
32 victim of the victim's right to refuse the interview.

33 C. The prosecutor shall not be required to forward any correspondence
34 from the defendant, the defendant's attorney or an agent of the defendant to
35 the victim or the victim's representative.

36 D. If the victim consents to an interview, the prosecutor's office
37 shall inform the defendant, the defendant's attorney or an agent of the
38 defendant of the time and place the victim has selected for the interview.
39 If the victim wishes to impose other conditions on the interview, the
40 prosecutor's office shall inform the defendant, the defendant's attorney or
41 an agent of the defendant of the conditions. The victim has the right to
42 terminate the interview at any time or to refuse to answer any question
43 during the interview. The prosecutor has standing at the request of the
44 victim to protect the victim from harassment, intimidation or abuse and,
45 pursuant to that standing, may seek any appropriate protective court order.

1 E. Unless otherwise directed by the victim, the prosecutor may attend
2 all interviews. If a transcript or tape recording of the interview is made
3 and on request of the prosecutor, the prosecutor shall receive a copy of the
4 transcript or tape recording at the prosecutor's expense.

5 F. If the defendant or the defendant's attorney comments at trial on
6 the victim's refusal to be interviewed, the court shall instruct the jury
7 that the victim has the right to refuse an interview under the Arizona
8 Constitution.

9 ~~G. For the purposes of this section, a peace officer shall not be~~
10 ~~considered a victim if the act that would have made the officer a victim~~
11 ~~occurs while the peace officer is acting in the scope of the officer's~~
12 ~~official duties.~~

13 H. G. This section applies to the parent or legal guardian of a minor
14 child who exercises victims' rights on behalf of the minor child.

APPROVED BY THE GOVERNOR APRIL 17, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2012.

Passed the House March 1, 20 12

Passed the Senate April 10, 20 12

by the following vote: 56 Ayes,

by the following vote: 30 Ayes,

0 Nays, 3 Not Voting
1 vacant

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

11th day of April, 20 12

at 9:48 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 17th day of

April

at 11:09 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 17th day of April, 20 12

at 3:36 o'clock M.

[Signature]
Secretary of State

H.B. 2550